UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
--X **Civil Action No.:**
MARCO H. EROGLU, *on behalf of himself, FLSA Collective Plaintiffs and the Class Members*

Plaintiffs,

-against-

CLASS AND COLLECTIVE ACTION COMPLAINT

FAITH CONSTRUCTION INC.
FATIH DAG and HESHAM HASSANE,

Defendants.
--X

Plaintiff MARCO H. EROGLU ("Plaintiff"), on behalf of himself and others similarly situated, by and through their attorneys, AKIN LAW GROUP PLLC, hereby file this Class and Collective Action Complaint against Defendant, FAITH CONSTRUCTION INC., (hereinafter referred to as "Corporate Defendant"), FATIH DAG and HESHAM HASSANE, (hereinafter each referred to as "Individual Defendant") and collectively referred to as "Defendants".

Dated: December 8, 2016
New York, New York

Respectfully Submitted

AKIN LAW GROUP PLLC
Attorneys for Plaintiff

/s/ Leopold Raic
____
By: Leopold Raic, Esq. (LR 4202)
45 Broadway, Suite 1420
New York, New York 10006
(212) 825-1400

INTRODUCTION

1. Plaintiff alleges, pursuant to the Fair Labor Standards Act, as, 29 U.S.C. §§201 et. seq. ("FLSA") that he is entitled to recover from Defendants: (1) unpaid minimum wages, (2) unpaid overtime, (3) liquidated damages, (4) statutory penalties, (5) interest, (6) costs, and disbursements, and (7) attorneys' fees.

2. Plaintiff further alleges that, pursuant to the New York Labor Law ("NYLL") he is entitled to recover from Defendants: (1) unpaid minimum wages, (2) unpaid overtime, (3) unpaid spread of hours premium, (4) liquidated damages, (5) statutory penalties, (6) interest, (7) costs and disbursements, and (7) attorneys' fees.

3. Defendants operated a construction company, at which Plaintiff, FLSA Collective Plaintiffs, and Class members worked.

4. From on or about August 3, 2009 until January 17, 2015 Plaintiff worked as a construction-worker for corporate Defendant, FAITH CONSTRUCTION INC., and its owners, the individual Defendants FATIH DAG and HESHAM HASSANE earning $14.00 per hour. During this time period Plaintiff worked from 7:00 am until 5:00 pm Monday through Saturday for a total of 60 hours and worked on average of two nights per week for an average of 8 hours totaling 68 hours. From on or about August 3, 2009 until January 5, 2013, Plaintiff was paid 40 hours straight-time in check and the balance (28) hours in straight-time, in cash. From January 7, 2013 until January 17, 2015, Defendants only paid Plaintiff the 40 hours in check and refused to pay any of the overtime he worked. Plaintiff resigned on January 17, 2015.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this controversy pursuant to 29 U.S.C. §216(b), 28 U.S.C. §§1331, 1337 and 1343, and has supplemental jurisdiction over Plaintiffs' State law claims pursuant to 28 U.S.C. §1367.

6. Venue is proper in the Eastern District pursuant to 28 U.S.C. §1391.

PARTIES

7. Plaintiff, MARCO H. EROGLU, for all relevant time periods, was a resident of Kings County, City and State of New York.

8. Defendant, FAITH CONSTRUCTION INC., was and is a business entity duly organized under the laws of the State of New York.

9. Defendant, FAITH CONSTRUCTION INC., was and is a domestic business corporation duly organized under the laws of the State of New York.

10. Defendant, FAITH CONSTRUCTION INC., was and is an entity duly authorized to conduct business in the State of New York.

11. Defendant, FAITH CONSTRUCTION INC., operates a business engaged in metal working and/or construction.

12. Defendant, FAITH CONSTRUCTION INC., conducted business at the location designated and more commonly known as 16 Stewart Street, Brooklyn, New York 11207.

13. Defendant, FATIH DAG, was and is a resident of the State of New York.

14. Defendant, FATIH DAG, was and is an owner and/or partner, of Defendant, FAITH CONSTRUCTION INC.

15. Defendant, FATIH DAG, was and is Chief Executive Officer of Defendant, FAITH CONSTRUCTION INC.

16. Defendant, FATIH DAG, was and is an agent, servant and/or employee of Defendant, FAITH CONSTRUCTION INC.

17. Defendant, FATIH DAG, was the manager of the Plaintiff, while Plaintiff was an employee of Defendant, FAITH CONSTRUCTION INC.

18. Defendant, FATIH DAG exercises operational control as it relates to all

employees including Plaintiff, FLSA Collective Plaintiffs and the Class.

19. Defendant, FATIH DAG exercises the power to (and also delegates to managers and supervisors the power to) fire and hire employees, supervise and control employees' work schedules and conditions of employment, affect the quality of the employee's employment and determine the rate and method of compensation of employees including those of Plaintiff, FLSA Collective Plaintiffs and the Class.

20. At all times, employees could complain to FATIH DAG directly regarding any of the terms and conditions of their employment.

21. Defendant, FATIH DAG directly reprimanded and reprimands employees regarding the performance of their duties.

22. Defendant, FATIH DAG had and has the authority to fire and hire, supervise and control work schedules and conditions of employment, and determine rate and method of pay of managerial employees who directly supervise Plaintiff, FLSA Collective Plaintiffs and the Class.

23. Defendant, FATIH DAG exercises functional control over the business and financial operations of Defendant, FAITH CONSTRUCTION INC.

24. Defendant, FATIH DAG ensures and ensured that employees properly performed their duties as metal / construction workers to ensure that Defendant, FAITH CONSTRUCTION INC., is operating efficiently and profitably.

25. Defendant, FATIH DAG regularly visited and continues to visit the offices of the Corporate Defendant, FAITH CONSTRUCTION INC.

26. Defendant, HESHAM HASSANE, was an owner and/or partner, of Defendant, FAITH CONSTRUCTION INC.

27. Defendant, HESHAM HASSANE, was an agent, servant and/or employee of Defendant, FAITH CONSTRUCTION INC.

28. Defendant, HESHAM HASSANE, was the manager of the Plaintiff, while Plaintiff was an employee of Defendant, FAITH CONSTRUCTION INC.

29. Defendant HESHAM HASSANE exercises operational control as it related to all employees including Plaintiff, FLSA Collective Plaintiffs and the Class.

30. Defendant HESHAM HASSANE exercised the power to (and also delegated to managers and supervisors the power to) fire and hire employees, supervise and control employees' work schedules and conditions of employment, affect the quality of the employee's employment and determine the rate and method of compensation of employees including those of Plaintiff, FLSA Collective Plaintiffs and the Class.

31. At all times, employees could complain to HESHAM HASSANE directly regarding any of the terms and conditions of their employment.

32. Defendant HESHAM HASSANE directly reprimanded employees regarding the performance of their duties.

33. Defendant HESHAM HASSANE had the authority to fire and hire, supervise and control work schedules and conditions of employment, and determine rate and method of pay of managerial employees who directly supervise Plaintiff, FLSA Collective Plaintiffs and the Class.

34. Defendant HESHAM HASSANE exercised functional control over the business and financial operations of Defendant, FAITH CONSTRUCTION INC.

35. Defendant HESHAM HASSANE ensured that employees properly performed their duties as metal / construction workers to ensure that Defendant, FAITH CONSTRUCTION INC., was operating efficiently and profitably.

36. Defendant HESHAM HASSANE regularly visited the offices of the Corporate Defendant, FAITH CONSTRUCTION INC.

FLSA COLLECTIVE ACTION ALLEGATIONS

37. Plaintiffs bring claims for relief as a collective action pursuant to FLSA Section 16(b), 29 U.S.C. § 216(b), on behalf of all non-exempt employees employed by the Defendants on or after the date that is six years before the filing of the Complaint in this case as defined herein ("FLSA Collective Plaintiffs.")

38. At all relevant times, Plaintiff and the other FLSA Collective Plaintiffs are and have been similarly situated, have had substantially similar job requirements and pay provisions, and are and have been subjected to Defendants' decisions, policies, plans, programs, practices, procedures, protocols, routines, and rules, all culminating in a willful failure and refusal to pay them the overtime worked hours worked and the overtime premium at the rate of one and one half times the regular rate for work in excess of forty (40) hours per workweek.

39. The claims for relief are properly brought under and maintained as an opt-in collective action pursuant to § 16(b) of the FLSA, 29U.S.C. 216(b). The FLSA Collective Plaintiffs are readily ascertainable. For purposes of notice and other purposes related to this action, their names and addresses are readily available from the Defendants. Notice can be provided to the FLSA Collective Plaintiffs via first class mail to the last known address of Defendants.

RULE 23 CLASS ALLEGATIONS – NEW YORK

40. Plaintiffs bring claims for relief pursuant to the Federal Rules of Civil Procedure ("F.R.C.P.") Rule 23, on behalf of all non-exempt persons employed by Defendants on or after the date that is six years before the filing of the Complaint in this case as defined herein (the "Class Period").

41. All said persons, including Plaintiffs, are referred to herein as the "Class." The Class members are readily ascertainable. The number and identity of the Class members are determinable from the records of Defendants. The hours assigned and worked, the position held,

and rates of pay for each Class member may also be determinable from Defendant's records. For purposes of notice and other purposes related to this action, their names and addresses are readily available from Defendants. Notice can be provided by means permissible under FRCP 23.

42. The proposed Class is so numerous such that a joinder of all members is impracticable, and the disposition of their claims as a class will benefit the parties and the Court. Although the precise number of such persons is unknown because the facts on which the calculation of that number rests presently within the sole control of Defendants, there is no doubt that there are more than forty (40) members of the Class.

43. Plaintiffs' claims are typical of those claims that could be alleged by any member of the Class, and the relief sought is typical of the relief, that would be sought by each member of the Class in separate actions. All the Class members were subject to the same corporate practices of Defendants and Defendants benefited from the same type of unfair and/or wrongful acts as to each Class member. Plaintiffs and other Class members sustained similar losses, injuries and damages arising from the same unlawful policies, practices and procedures.

44. Plaintiff is able to fairly and adequately protect the interests of the Class and has no interests antagonistic to the Class. Plaintiff is represented by attorneys who are experienced and competent in both class action litigation and employment litigation and have previously represented plaintiffs in wage and hour cases.

45. A class action is superior to other available methods for the fair and efficient adjudication of the controversy - particularly in the context of the wage and hour litigation where individual class members lack the financial resources to vigorously prosecute a lawsuit against corporate defendants. Class action treatment will permit a large number of similarly situated persons to prosecute common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of efforts and expense that numerous individual actions engender. Because losses, injuries and damages suffered by each of the individual Class members are

small in the sense pertinent to a class action analysis, the expenses and burden of individual litigation would make it extremely difficult or impossible for the individual Class members to redress the wrongs done to them. On the other hand, important public interest will be served by addressing the matter as a class action. The adjudication of individual litigation claims would result in a great expenditure of Court and public resources; however, treating the claims as a class action would result in a significant saving of these costs. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent and/or varying adjudications. With respect to the individual members of the Class, establishing incompatible standards of conduct for Defendants and resulting in the impairment of class members' rights and the disposition of their interests through actions to which they were not parties. The issues in this action can be decided by means of common, class-wide proof. In addition, if appropriate, the Court can, and is empowered to, fashion methods to efficiently manage this as a class action.

46. Defendants and other employers throughout the state violate the NYLL. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing claims because doing so can harm their employment, future employment, and future efforts to secure employment. Class actions provide class members who are not named in the Complaint a degree of anonymity, which allows for the vindication of their rights while eliminating or reducing these risks.

47. There are questions of law and fact common to the Class which predominate over any questions affecting only individual class members, including:

a. Whether Defendants employed Plaintiffs and the Class within the meaning of the New York law;

b. What are and were the policies, practices, programs, procedures, protocols and plans of Defendants regarding the types of work and labor for which Defendants did not pay the Class members properly;

c. At what common rate, or rates subject to common methods of calculation, was and are Defendants required to pay the Class members for their works;

d. Whether Defendants provided Plaintiffs and the Class with a spread time premium as required by NYLL; and

e. Whether Defendants properly notified Plaintiffs and the Class members of their hourly rate and overtime rate.

STATEMENT OF FACTS

48. At all relevant times, Defendants employed Plaintiff, FLSA Collective Plaintiffs and Class members within the meaning of the FLSA.

49. At all relevant times, Corporate Defendant had gross annual revenues in excess of $500,000.00.

50. At all relevant times, Defendants jointly had gross annual revenues in excess of $500,000.00.

51. On or around August 3, 2009 Plaintiff started to work for Defendants, FAITH CONSTRUCTION INC., FATIH DAG and HESHAM HASSANE working as an iron worker earning $14.00 per hour. During this time period Plaintiff worked from 7:00 am until 5:00 pm Monday through Saturday (for a total of 60 hours) and worked (on average) two additional nights per week (for an average of 8 hours) totaling 68 hours. From August 3, 2009 until December 29, 2012, Plaintiff was paid 40 hours straight-time in check and the balance (approximately 28) hours in straight-time ($14.00 per hour), in cash. Plaintiff should have been paid the 28 hours he worked each week (approximately) in overtime (i.e. $21.00 per hour). As a result, Plaintiff has been denied weekly payment of $196.00 exclusive of New York and Federal Liquidated damages.

52. Commencing on or about December 31, 2012 until January 17, 2013 Plaintiff continued to work from 7:00 am until 5:00 pm Monday through Saturday (for a total of 60 hours) and worked (on average) two additional nights per week (for an average of 8 hours) totaling 68 hours. For this time period, Plaintiff was paid 40 hours straight-time in check and the balance

(approximately 28) hours that he worked was NOT paid at all (not paid in cash or check). Plaintiff should have been paid the 28 hours he worked each week (approximately) in overtime (i.e. $21.00 per hour). As a result, Plaintiff has been denied weekly payment of $588.00 exclusive of New York and Federal Liquidated damages.

53. On the two days that Plaintiff, FLSA Collective Plaintiffs and Class Members worked at night, said Plaintiffs were entitled to Spread of Hours pay equal to no less than the minimum wage, which said Plaintiffs were NOT paid.

54. Plaintiffs' requests for Overtime pay were denied in harsh tones. As a result of Defendants refusal to pay Plaintiff the overtime to which he was entitled, Plaintiff was constructively terminated as of January 17, 2015.

55. At all relevant times herein, Defendants unlawfully failed to pay Plaintiff, FLSA Collective Plaintiffs, and Class members the minimum wage as requires by law.

56. At all relevant times, although Plaintiff, FLSA Collective Plaintiffs and Class Members regularly worked over forty hours per week, Defendants failed to pay Plaintiff, FLSA Collective Plaintiffs and Class Members either FLSA overtime rate (of time and one-half) or the New York State overtime rate (of time and one-half) for hours they worked over forty hours in a workweek.

57. Although Plaintiff, FLSA Collective Plaintiffs and Class members had workdays that regularly exceed 10 hours in length (two days per week), Defendants never paid the Plaintiff, FLSA Collective Plaintiffs and Class Members the "spread of hours" premium as required by NYLL.

58. Defendants never informed the Plaintiff, FLSA Collective Plaintiffs and Class Members in writing as to their spread-of-hours pay, hourly rate of pay and/or the overtime rate of pay.

59. At all times herein relevant, Plaintiff, FLSA Collective Plaintiffs and Class

Members were denied the minimum wage and overtime wages as mandated by the FLSA and the minimum wage, overtime wages and the spread-of-hours pay as mandated by the NYLL as set forth herein.

60. Defendants failed to provide the Plaintiff, FLSA Collective Plaintiffs and Class Members proper wage statements in violation of the NYLL.

61. At all relevant times, Defendants are were required to establish, maintain and preserve for not less than six years, pay roll records for each employee, which includes: name and address; social security number; and, wage rate. NYLL § 195; 12 NYCRR § 142-2.6

62. At all relevant times, Defendants were and are required to establish, maintain and preserve for not less than six years, notice of the rate of pay at the time of hiring and subsequent notices when pay rate changed. NYLL § 195; 12 NYCRR § 142-2.6

63. At all relevant times, Defendants are and were required to establish, maintain and preserve for not less than six years, weekly payroll records that show for each employee, among other information, the number of hours worked daily and weekly including the time of arrival and departure of each employee. NYLL § 193; 12 NYCRR § 142-2.6; 12 NYCRR § 142-2.7.

64. Defendants knowingly and willfully operated their business with a policy of paying less than the required FLSA minimum wage and/or the required New York State minimum wage to the Plaintiff, FLSA Collective Plaintiffs and Class members as set forth herein.

65. Defendants knowingly and willfully operated their business with a policy of not paying either the FLSA overtime rate (of time and one-half) or the New York State overtime rate (of time and one-half) to Plaintiff, FLSA Collective Plaintiffs and Class members as set forth herein.

66. Defendants knowingly and willfully operated their business with a policy of not paying the New York State spread-of-hours pay to Plaintiff, FLSA Collective Plaintiffs and

Class members as set forth herein.

67. Defendants purposely refused to pay the Plaintiff and all other non-exempt employees for all the hours worked, including overtime hours and spread-of-hour pay.

68. Defendants purposely schemed a plan to circumvent the payment of the minimum wage and the hourly overtime rates to the Plaintiff, FLSA Collective Plaintiffs and Class members.

69. Defendants knowingly and willfully operated their business with a policy of not paying the New York State spread-of-hours premium to Plaintiff, FLSA Collective Plaintiffs and Class members.

70. Defendants knowingly and willfully operated their business with a policy of not providing proper wage statements as required under the NYLL.

71. Defendants failed to provide proper wage and hour notices, at date of hiring and/or annually, to all non-exempt employees in compliance with statutory requirements under the NYLL.

72. Plaintiff retained Akin Law Group, PLLC to represent Plaintiff, FLSA Collective Plaintiffs and Class members, in this litigation and has agreed to pay the firm a reasonable fee for its services.

STATEMENT OF CLAIM

FIRST CLAIM FOR RELIEF
FLSA Minimum Wage Claims, 29 U.S.C. § 201, *et seq.*,
(Brought by Plaintiff on Behalf of himself, on behalf of FLSA Collective Plaintiffs and on behalf of Class Members)

73. Plaintiff, on behalf of himself and FLSA Collective Plaintiffs and Class Members, realleges and incorporates by reference all preceding paragraphs as if they were more fully set forth herein in length.

74. At all relevant times, Defendants were and continue to be employers engaged in

interstate commerce and/or the production of goods for commerce within the meaning of the FLSA, 29 U.S.C. §203, § 206(a) and 207(a).

75. Plaintiffs, FLSA Collective Plaintiffs and Class Members are covered individuals within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207(a).

76. Throughout the statute of limitations period covered by these claims, Defendants knowingly failed to pay Plaintiff and the members of the FLSA Collective the federal minimum wage for each hour worked.

77. Defendants failed to properly disclose or apprise Plaintiffs, FLSA Collective Plaintiffs and Class Members of their rights under FLSA.

78. At all relevant times, the Defendants are and were engaged in a policy and practice of refusing to pay the minimum wage compensation at statutory rate to Plaintiffs, FLSA Collective Plaintiffs and Class members for their actual hours worked.

79. At all relevant times, the Defendants were in violation of FLSA.

80. Due to the intentional, willful and unlawful acts of Defendants, Plaintiffs, FLSA Collective Plaintiffs and Class members suffered damages in an amount not presently ascertainable of unpaid minimum wages, plus an equal amount as liquidated damages.

81. Plaintiff, on behalf of Himself and the FLSA Collective, seeks damages in the amount of their respective unpaid compensation, liquidated (double) damages as provided by the FLSA for minimum wage violations, attorneys' fees and costs, pre- and post-judgment interest, and such other legal and equitable relief as this Court deems just and proper.

SECOND CLAIM FOR RELIEF
FLSA Overtime Violations, 29 U.S.C. § 201, *et seq.*
(Brought by Plaintiff on Behalf of himself, on behalf of FLSA Collective Plaintiffs and on behalf of Class Members)

82. Plaintiff, on behalf of himself and FLSA Collective Plaintiffs and Class Members, realleges and incorporates by reference all preceding paragraphs as if they were more

fully set forth herein in length.

83. Throughout the statute of limitations period covered by these claims, Plaintiff and the other FLSA Collective members worked in excess of forty (40) hours per workweek.

84. At all relevant times, Defendants willfully, regularly and repeatedly failed to pay Plaintiffs, FLSA Collective Plaintiffs and Class Members at the required overtime rates, one-and-one-half times the federal minimum wage for hours worked in excess of forty (40) hours per workweek.

85. Defendants failed to properly disclose or apprise Plaintiffs, FLSA Collective Plaintiffs and Class Members of their rights under FLSA.

86. At all relevant times, the Defendants are and were engaged in a policy and practice of refusing to pay overtime compensation at statutory rate of time and one-half to Plaintiffs, FLSA Collective Plaintiffs and Class members for their hours worked in excess of forty hours per workweek.

87. At all relevant times, the Defendants were in violation of FLSA.

88. Due to the intentional, willful and unlawful acts of Defendants, Plaintiffs, FLSA Collective Plaintiffs and Class members suffered damages in an amount not presently ascertainable of unpaid overtime wages, plus an equal amount as liquidated damages.

89. Plaintiff, on behalf of Himself and the FLSA Collective, seeks damages in the amount of their respective unpaid overtime compensation, liquidated (double) damages as provided by the FLSA for overtime violations, attorneys' fees and costs, pre- and post-judgment interest, and such other legal and equitable relief as this Court deems just and proper.

THIRD CLAIM FOR RELIEF
New York State Minimum Wage Act, NYLL § 650 et seq.
(Brought by Plaintiff on Behalf of himself, on behalf of FLSA Collective Plaintiffs and on behalf of Class Members)

90. Plaintiff, on behalf of himself and FLSA Collective Plaintiffs and Class Members,

realleges and incorporates by reference all preceding paragraphs as if they were more fully set forth herein in length.

91. Defendants knowingly did not pay the Plaintiff the New York minimum wage as set forth in NYLL § 652 and supporting regulations of the New York State Department of Labor.

92. Defendants did not pay Plaintiffs, FLSA Collective Plaintiffs and Class Members the minimum wage for hours worked.

93. Defendants' failure to pay Plaintiffs, FLSA Collective Plaintiffs and Class Members the minimum wage was willful within the meaning of NYLL § 663.

94. Defendants made impermissible deductions from the wages of Plaintiff and Class Members under 12 NYCRR § 142-2.10.

95. As a result of Defendants' willful and unlawful conduct, Plaintiffs, FLSA Collective Plaintiffs and Class Members are entitled to an award of damages, including liquidated damages, in amount to be determined at trial, pre- and post-judgment interest, costs and attorneys' fees, as provided by NYLL § 663.

FORUTH CLAIM FOR RELIEF
New York State Overtime Violations, New York Minimum Wage Act, N.Y. Stat. § 650 et seq., N.Y. Comp. Codes R. & Regs. Tit. 12, §§ 137-1.3 (2010), 146-1.4 (2011)
(Brought by Plaintiff on Behalf of himself, on behalf of FLSA Collective Plaintiffs and on behalf of Class Members)

96. Plaintiff on behalf of himself and FLSA Collective Plaintiffs and Class Members, realleges and incorporates by reference all preceding paragraphs as if they were more fully set forth herein in length.

97. It is unlawful under New York law for an employer to suffer or permit a non-exempt employee to work without paying overtime wages for all hours worked in excess of forty (40) hours in any workweek.

98. Throughout the Class Period, Defendants willfully, regularly and repeatedly failed to pay Plaintiffs, FLSA Collective Plaintiffs and Class Members required overtime rates, one-and-one-half times the minimum wages for hours worked in excess of forty (40) hours per workweek.

99. As a result of Defendants' willful and unlawful conduct, Plaintiffs, FLSA Collective Plaintiffs and Class Members are entitled to an award of damages, including liquidated damages, in amount to be determined at trial, pre- and post-judgment interest, costs and attorneys' fees, as provided by NYLL § 663.

FIFTH CLAIM FOR RELIEF
New York Spread of Hours Provisions
N.Y. Lab. L. § 650 et seq., and N.Y. Comp. Code R. & Regs. Tit. 12, §§ 137-1.7 (2010), 146-1.6 (2011)
(Brought by Plaintiff on Behalf of himself, on behalf of FLSA Collective Plaintiffs and on behalf of Class Members)

100. Plaintiff, on behalf of himself and FLSA Collective Plaintiffs and Class Members, realleges and incorporates by reference all preceding paragraphs as if they were more fully set forth herein in length.

101. Plaintiffs, FLSA Collective Plaintiffs and Class Members regularly had workdays that lasted more than ten (10) hours.

102. Defendants failed to provide the "spread of hours" premium as required by 12 NYCRR § 142-2.18.

103. Defendants willfully and intentionally failed to compensate Plaintiffs, FLSA Collective Plaintiffs and Class Members one hour's pay at the basic New York minimum hourly wage rate when their workdays exceeded ten (10) hours, as required by New York law.

104. Defendants failed to pay Plaintiff and Class Members who, by request or permission of Defendants, reported for work on a given day but were asked to leave at least four

hours at the basic minimum wage as required by 12 NYCRR § 142-2.3.

105. As a result of Defendants' willful and unlawful conduct, Plaintiff and members of the FLSA Collective are entitled to an award of damages, including liquidated damages, in amount to be determined at trial, pre- and post-judgment interest, costs and attorneys' fees, as provided by NYLL § 663.

SIXTH CLAIM FOR RELIEF
New York Notice Requirements, N.Y. Lab. L. §§ 195, 198
(Brought by Plaintiff on Behalf of himself, on behalf of FLSA Collective Plaintiffs and on behalf of Class Members)

106. Plaintiff, on behalf of himself and FLSA Collective Plaintiffs and Class Members, realleges and incorporates by reference all preceding paragraphs as if they were more fully set forth herein in length.

107. Defendants did not provide Plaintiff and the members of the FLSA Collective with the notices required by NYLL § 195.

108. As a result of Defendants' unlawful conduct, Plaintiffs, FLSA Collective Plaintiffs and Class Members are entitled to an award of damages pursuant to NYLL § 198, in amount to be determined at trial, pre- and post-judgment interest, costs and attorneys' fees, as provided by NYLL § 663.

109. Defendants failed to properly notify employees of their hourly pay rate and overtime rate, in direct violation of the NYLL § 195 and 12 NYCRR § 142-2.6.

110. Defendants failed to provide a proper wage and hour notice, at the date of hiring and annually, to all non-except employees per requirements of the NYLL § 195 and 12 NYCRR § 142-2.6.

111. Defendants failed to provide proper wage statements with every payment as required by NYLL § 195(3).

112. Due to the Defendants' NYLL violations, Plaintiff, FLSA Collective Plaintiffs

and Class Members are entitles to recover from Defendants their unpaid wages/minimum wage, unpaid overtime, unpaid spread of hours premiums, liquidated damages, interest, reasonable attorneys' fees, statutory penalties and costs and disbursements of the action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of himself, FLSA Collective Plaintiffs and Class members, respectfully requests that this Court grant the following relief:

a. Designation of this action as a collective action on behalf of the FLSA Collective Plaintiffs and Class Members and prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the FLSA Collective, apprising them of the pendency of this action, and permitting them to assert timely FLSA claims and state claims in this action by filing individual Consent to Sue forms pursuant to 29 U.S.C. § 216(b);

b. Designation of Plaintiff as Representative of the FLSA Collective Plaintiffs and Class Members;

c. A declaratory judgment that the practices complained of herein are unlawful under the FLSA and the NYLL;

d. An injunction against Defendants and their officers, agents, successors, employees, representatives and any and all persons acting in concert with them as provided by law, from engaging in each of the unlawful practices, policies and patterns set forth herein;

e. An award of unpaid minimum wages due under the FLSA and the NYLL;

f. An award of unpaid overtime compensation due under the FLSA and the NYLL;

g. An award of unpaid spread of hours premium due under the NYLL;

h. An award of statutory penalties as a result of Defendants' failure to comply with the FLSA and the NYLL wage notice and wage statement requirements;

i. An award of liquidated and/or punitive damages as a result of Defendants' willful act of taking improper tip credits and deductions;

j. An award of liquidated and/or punitive damages as a result of Defendants' willful failure to pay overtime compensation, minimum wage and spread of hours premium pursuant to the FLSA and the NYLL;

k. An award of prejudgment and post judgment interest, costs and expenses of this action together with reasonable attorneys' and expert fees and statutory penalties;

l. Such other and further relief as this Court deems just and proper.

Dated: December 8, 2016
New York, New York

Respectfully Submitted

AKIN LAW GROUP PLLC
Attorneys for Plaintiff

/s/ Leopold Raic

By: Leopold Raic, Esq. (LR 4202)
45 Broadway, Suite 1420
New York, New York 10006
(212) 825-1400

CONSENT TO SUE UNDER THE FAIR LABOR STANDARDS ACT

I, MARCO H. EROGLU, am an individual formerly employed by

FAITH CONSTRUCTION INC.

FATIH DAG and HESHAM HASSANE,

(together, including any successors, affiliates or related entities, "Defendants"). I consent to be a plaintiff in an action to collect unpaid compensation against Defendants.

I agree that I am bound by the terms of the Professional Services Agreement signed in this case.

MARCO H. EROGLU

12-07-16
Dated

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
---X **Civil Action No.:**
MARCO H. EROGLU, *on behalf of himself,*
FLSA Collective Plaintiffs and the Class Members

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